

SENATE BILL NO. 493

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary

on _____)

(Patron Prior to Substitute--Senator McClellan)

A BILL to amend the Code of Virginia by adding a section numbered 8.01-46.2, relating to civil action for the dissemination of sexually explicit visual material to another; penalty.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 8.01-46.2 as follows:

§ 8.01-46.2. Civil action for dissemination of intimate images to another; penalty.

A. As used in this section:

"Electronic communication device" means the same as that term is defined in § 18.2-190.1.

"Intimate image" means a photograph, film, video, recording, digital picture, or other visual reproduction of a person 18 years of age or older who is in a state of undress so as to expose the human male or female genitals.

B. Any person 18 years of age or older who knowingly transmits an intimate image by computer or other electronic means to the computer or electronic communication device of another person 18 years of age or older when such other person has not consented to the use of his computer or electronic communication device for the transmission of such material or has expressly forbidden the transmittal of such material shall be considered a conversion and shall be liable to the recipient of the intimate image for actual damages or \$500, whichever is greater, in addition to reasonable attorney fees and costs. The court may also award punitive damages and enjoin and restrain the defendant from committing such further acts.

The remedies provided by this section are cumulative and shall not be construed as restricting a remedy that is available under any other law.

